

UNITED STATES OF AMERICA  
POSTAL REGULATORY COMMISSION  
WASHINGTON, DC 20268-0001

First-Class Mail and Periodicals  
Service Standard Changes, 2021

Docket No. N2021-1

PRESIDING OFFICER'S RULING FURTHER ADJUSTING PROCEDURAL  
SCHEDULE AND PRE-HEARING FILINGS

(Issued May 25, 2021)

On April 23, 2021, the Commission issued a notice and order concerning the Postal Service's request for an advisory opinion on the planned changes to the service standards for First-Class Mail and end-to-end Periodicals.<sup>1</sup> To further explore issues raised in this proceeding, the Commission scheduled a hearing, should a party file rebuttal testimony, on the Postal Service's direct case beginning June 9, 2021. Order No. 5875 at 15. The hearings previously scheduled June 2 through June 4, 2021, are cancelled.

Presiding Officer's Ruling No. 7 set other deadlines for filings in advance of the hearing dates.<sup>2</sup> On May 24, 2021, the American Postal Workers Union, Mr. Steve Hutkins, and Mr. Douglas Carlson filed notices of their intent to file rebuttal testimony.<sup>3</sup> Due to the filing of rebuttal testimony, the hearings on the Postal Service's direct case

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<sup>1</sup> Notice and Order on the Postal Service's Request for an Advisory Opinion on Changes in the Nature of Postal Services, April 23, 2021 (Order No. 5875).

<sup>2</sup> See Presiding Officer's Ruling Adjusting Procedural Schedule and Modifying Pre-Hearing Filings, May 13, 2021 (POR No. 7).

<sup>3</sup> American Postal Workers Union, AFL-CIO Notice of Intent to File Rebuttal Testimony, May 24, 2021; Steve Hutkins Notice of Intent to File Rebuttal Testimony, May 24, 2021; Douglas F. Carlson Notice of Intent to File Rebuttal Testimony, May 24, 2021.

are a week later than originally scheduled, and will begin June 9, 2021.<sup>4</sup> The pre-hearing dates set in POR No. 7 are vacated due to the new hearing schedule.

Parties must now file any notices of intent to conduct oral cross-examination by June 2, 2021. The notice must include an estimate of the amount of time requested for each witness.

In addition, parties may request to present oral argument at the hearing. Order No. 5875 at 17. Accordingly, any request to present oral argument at the hearing must be filed by June 2, 2021.

Commission rules of practice require hard copy submission of specific documents (such as corrected testimony, designated discovery responses, and corrected discovery responses). See 39 C.F.R. § 3010.321(g)(2) (requiring three hard copies of each piece of testimony to be entered into the record with corrections noted on the hard copies); 39 C.F.R. § 3020.122(e)(2) (requiring two hard copies of each designated written cross examination/ responses with corrections noted on the hard copies). Under normal circumstances, the Secretary of the Commission then “prepare[s] for the record a packet containing all materials designated for written cross-examination in a format that facilitates review by the witness and counsel.” 39 C.F.R. § 3020.122(e)(2).

Parties, in lieu of submitting hard copy documents to the Commission, shall prepare their lists of designations (without the responses) and file that list as a “Notice of Designations” (only one notice is necessary for each party). The lists shall be, for each witness, in alphabetical order of the party’s name followed by numerical order of the interrogatory. For example:

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<sup>4</sup> Presuming there is no surrebuttal testimony, which the Postal Service would have to request and be granted via motion and ruling.

**Designations for Witness One**

ABC/USPS-T1-1  
ABC/USPS-T1-3  
DEF/USPS-T1-1  
GHI/USPS-T1-3  
JKL/USPS-T1-2

**Designations for Witness Two**

DEF/USPS-T2-4  
GHI/USPS-T2-2

Such notices shall be filed no later than June 3, 2021.

The Postal Service shall, on June 7, 2021, file a “Notice of Designated Materials” for each witness it has sponsored identifying any corrections to the testimony or designated materials. Attached to that notice shall be a single Adobe PDF file that contains, in order: the witness’s testimony (with any corrections highlighted); identification of any library references sponsored by the witness; and all the witness’s designated written responses (with any corrections highlighted) in alphabetical order by party name and then numerical order of the request.

Rebuttal testimony must be filed by June 2, 2021. Parties who intend to conduct oral cross-examination of rebuttal witnesses shall file a Notice of Intent to Conduct Rebuttal Cross-Examination not later than June 4, 2021, which shall include an estimate of the time required for each witness.<sup>5</sup> Rebuttal witnesses, if called for oral cross-examination, shall appear immediately following the oral cross-examination of the Postal Service’s direct case.<sup>6</sup> Written discovery (cross examination) may be served on the parties offering rebuttal testimony immediately after filing of rebuttal testimony, and

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<sup>5</sup> Consistent with 39 C.F.R. § 3020.122(e)(2), written cross-examination will be utilized as a substitute for oral cross-examination whenever possible. Given the extremely tight procedural schedule required in this case to meet the 90-day issuance target for the Commission’s Advisory Opinion, parties are strongly encouraged to limit the use of oral cross-examination unless designated written discovery responses are likely to be inadequate.

<sup>6</sup> No earlier than June 10, 2021, and no later than June 11, 2021.

must be filed no later than June 7, 2021. Responses to those discovery requests are due no later than June 14, 2021. Parties must file a Notice of Designations, consistent with the procedure describe above, should they wish to designate rebuttal case discovery responses for the record, no later than June 15, 2021. The Presiding Officer will issue a further ruling admitting designated materials into evidence on June 16, 2021.

Initial Briefs or Statements of Position are now due no later than June 18, 2021. Reply Briefs may be filed no later than June 25, 2021.

To facilitate the orderly proceeding of the hearing, the Presiding Officer shall update the schedule for the hearing dates, including the order and timing of the witnesses' appearances, no earlier than June 7, 2021.

## RULING

1. Notices of intent to conduct oral cross-examination are due by June 2, 2021.
2. Requests to present oral argument are due by June 2, 2021.
3. Parties, if designating responses for the record, shall file a "Notice of Designations" as described in the body of this ruling no later than June 3, 2021.
4. Parties that wish to conduct oral cross-examination of a rebuttal witness shall file a "Notice of Intent to Conduct Rebuttal Cross-Examination" no later than June 4, 2021.
5. The Postal Service shall file a "Notice of Designated Materials" as described in the body of this ruling no later than June 7, 2021.
6. Discovery on rebuttal cases must be served by June 7, 2021.
7. Discovery on rebuttal cases must be answered by June 14, 2021.
8. Parties, if designating discovery responses on rebuttal cases, shall file a "Notice of Designations" as described in the body of this ruling no later than June 15, 2021.
9. Initial Briefs or Statements of Position are due June 18, 2021.
10. Reply Briefs are due June 25, 2021.
11. The modified procedural schedule for this proceeding is set forth below the signature of this Order.

Christopher Laver  
Presiding Officer

**Procedural Schedule for Docket No. N2021-1**  
(Modified by the Presiding Officer, May 25, 2021)

**Deadlines in Preparation for Hearing:**

Filing of Notice Confirming Intent to Conduct Cross-Examination	June 2, 2021
Filing of Request to Present Oral Argument	June 2, 2021
Filing of Notice of Designations	June 3, 2021
Filing of Notices of Designated Materials	June 7, 2021

**Rebuttal Case Deadlines:**

Filing of Rebuttal Cases	June 2, 2021
Filing of Notice Confirming Intent to Conduct Rebuttal Cross-Examination	June 4, 2021
Close of Discovery on Rebuttal Cases	June 7, 2021
Rebuttal Cases Discovery Responses Due	June 14, 2021
Filing of Notice of Designations on Rebuttal Discovery Responses	June 15, 2021
Ruling Designating Rebuttal Case Discovery Responses	June 16, 2021

**Surrebuttal Case Deadlines (if applicable):**

Filing of Motion for Leave to File Surrebuttal Case	June 4, 2021
Filing of Response to Motion for Leave to File Surrebuttal Case	June 7, 2021
Filing of Surrebuttal Case (if authorized)	June 9, 2021

**Hearing Dates:**

Hearings (with Rebuttal Case, but no authorized Surrebuttal Case)	June 9 to 11, 2021
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Hearings (with Rebuttal Case and authorized Surrebuttal Case)	June 14 to 16, 2021
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**Briefing Deadlines:**

Filing of Initial Briefs (with no authorized Surrebuttal Case)	June 18, 2021
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Filing of Reply Briefs (with no authorized Surrebuttal Case)	June 25, 2021
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**Statement of Position Deadline:**

Filing of Statement of Position (with no Rebuttal Case)	June 18, 2021
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**Advisory Opinion Deadline:**

Filing of Advisory Opinion (absent determination of good cause for extension)	July 20, 2021
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